

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL
No. 2415 Session of
1988

INTRODUCED BY PIEVSKY, MAY 2, 1988

SENATOR TILGHMAN, APPROPRIATIONS, IN SENATE, RE-REPORTED
AS AMENDED, SEPTEMBER 28, 1988

AN ACT

1 ~~Making appropriations to the Department of General Services out~~ <—
2 ~~of various funds for payment of rental charges to The General~~
3 ~~State Authority.~~

4 ESTABLISHING A LOAN PROGRAM FOR THE PURPOSE OF MAKING LOANS TO <—
5 BUSINESS ENTERPRISES FOR THE PURCHASE OF MACHINERY AND
6 EQUIPMENT; CREATING THE MACHINERY AND EQUIPMENT LOAN FUND;
7 PROVIDING FOR THE USE OF FUNDS MADE AVAILABLE THROUGH THE
8 MACHINERY AND EQUIPMENT LOAN FUND; AND ESTABLISHING STANDARDS
9 FOR AND REQUIREMENTS OF THE PROGRAM.

10 The General Assembly of the Commonwealth of Pennsylvania
11 hereby enacts as follows:

12 ~~Section 1. The following sums are hereby appropriated, out~~ <—
13 ~~of the funds indicated, to the Department of General Services~~
14 ~~for the fiscal year July 1, 1988, to June 30, 1989, for payment~~
15 ~~of rental charges to The General State Authority:~~

16 ~~Out of the Fish Fund.....\$63,000~~

17 ~~Out of the Boat Fund.....2,000~~

18 ~~Section 2. This act shall take effect July 1, 1988, or~~
19 ~~immediately, whichever is later.~~

20 SECTION 1. SHORT TITLE. <—

1 THIS ACT SHALL BE KNOWN AND MAY BE CITED AS THE MACHINERY AND
2 EQUIPMENT LOAN FUND ACT.

3 SECTION 2. DEFINITIONS.

4 THE FOLLOWING WORDS AND PHRASES WHEN USED IN THIS ACT SHALL
5 HAVE THE MEANINGS GIVEN TO THEM IN THIS SECTION UNLESS THE
6 CONTEXT CLEARLY INDICATES OTHERWISE:

7 "BUSINESS ENTERPRISE." A FOR-PROFIT CORPORATION, PARTNERSHIP
8 OR PROPRIETORSHIP.

9 "DEPARTMENT." THE DEPARTMENT OF COMMERCE OF THE
10 COMMONWEALTH.

11 "FUND." THE MACHINERY AND EQUIPMENT LOAN FUND CREATED AND
12 ESTABLISHED BY THIS ACT.

13 "SECRETARY." THE SECRETARY OF COMMERCE OF THE COMMONWEALTH.
14 SECTION 3. MACHINERY AND EQUIPMENT LOAN FUND.

15 (A) CREATION.--THERE IS HEREBY CREATED A SPECIAL ACCOUNT IN
16 THE TREASURY DEPARTMENT, TO BE KNOWN AS THE MACHINERY AND
17 EQUIPMENT LOAN FUND, TO WHICH SHALL BE CREDITED ALL PROGRAM
18 APPROPRIATIONS MADE BY THE GENERAL ASSEMBLY, ALL PROCEEDS FROM
19 LOAN REPAYMENTS, AND ANY AND ALL OTHER DEPOSITS, PAYMENTS OR
20 CONTRIBUTIONS FROM ANY OTHER SOURCE MADE AVAILABLE TO THE FUND.
21 THE FUND SHALL OPERATE AS A REVOLVING FUND WHEREBY ALL
22 APPROPRIATIONS, PAYMENTS AND INTEREST MADE THERETO MAY BE
23 APPLIED AND REAPPLIED TO THE PURPOSES OF THIS ACT.

24 (B) CREDITS TO FUND.--ALL APPROPRIATIONS, DEPOSITS AND
25 CONTRIBUTIONS MADE TO THE FUND SHALL BE IMMEDIATELY CREDITED IN
26 FULL TO THE FUND, AND EARNINGS ON THE MONEYS HELD IN THE FUND
27 SHALL ALSO BE CREDITED TO THE FUND FOR THE PURPOSES OF THIS ACT.

28 SECTION 4. ELIGIBILITY FOR LOANS; TERMS AND CONDITIONS.

29 (A) LOANS; GENERAL RULES.--THE SECRETARY SHALL MAKE ADVANCES
30 FROM THE FUND, SUBJECT TO THE TERMS, CONDITIONS AND RESTRICTIONS

1 PROVIDED UNDER THIS ACT, FOR THE PURPOSE OF MAKING LOANS TO
2 BUSINESS ENTERPRISES INVOLVED IN INDUSTRIAL PROCESSES, MINING,
3 MANUFACTURING OR OTHER INDUSTRIAL SECTORS, AS DEFINED BY THE
4 DEPARTMENT, TO ACQUIRE AND INSTALL NEW MACHINERY AND EQUIPMENT
5 OR UPGRADE EXISTING MACHINERY AND EQUIPMENT. ALL LOANS SHALL BE
6 SUBJECT TO THE FOLLOWING CONDITIONS:

7 (1) BE FOR ELIGIBLE FIRMS UNDER THE PROVISIONS OF THIS
8 ACT.

9 (2) HAVE A MAXIMUM LOAN CEILING OF \$500,000 OR 50% OF
10 THE COST OF THE PROJECT, WHICHEVER IS LESS.

11 (3) BE LIMITED TO THE PURCHASE AND INSTALLATION OF NEW
12 EQUIPMENT AND MACHINERY OR THE UPGRADE OF EXISTING MACHINERY
13 AND EQUIPMENT.

14 (4) BE LIMITED TO PROJECTS THAT DEMONSTRATE THE CREATION
15 OR RETENTION OF ONE JOB FOR EVERY \$25,000 RECEIVED FROM THE
16 FUND.

17 (5) HAVE AN INTEREST RATE WHICH SHALL BE ESTABLISHED BY
18 THE SECRETARY BASED UPON THE CURRENT AND LONGER TERM
19 UNEMPLOYMENT LEVELS OF THE REGION OF THE COMMONWEALTH WITHIN
20 WHICH THE PROJECT IS LOCATED.

21 (6) HAVE A TERM OF NOT IN EXCESS OF TEN YEARS OR THE
22 USEFUL LIFE OF THE MACHINERY OR EQUIPMENT PURCHASED OR
23 UPGRADED, WHICHEVER IS LESS.

24 (B) RESTRICTIONS.--NO LOANS SHALL BE MADE THAT DO ANY OF THE
25 FOLLOWING:

26 (1) CAUSE, AID OR ASSIST IN, DIRECTLY OR INDIRECTLY, THE
27 RELOCATION OF ANY BUSINESS OPERATION FROM ONE PART OF THIS
28 COMMONWEALTH TO ANOTHER, UNLESS THERE IS AT LEAST A 25%
29 INCREASE IN NET EMPLOYMENT.

30 (2) SUPPLANT FUNDING THAT IS OTHERWISE AVAILABLE

EXPEDITIOUSLY FROM PRIVATE SECTOR SOURCES ON COMMERCIALY
REASONABLE TERMS.

(3) BE FOR THE PURPOSE OF REFINANCING ANY PORTION OF THE
TOTAL PROJECT COST OR OTHER EXISTING LOANS OR DEBT.

(4) BE FOR THE PURPOSE OF FINANCING PROJECTS LOCATED
OUTSIDE THE GEOGRAPHIC BOUNDARIES OF THIS COMMONWEALTH.

(5) BE FOR THE PURPOSE OF PAYING OFF A CREDITOR THAT IS
INADEQUATELY SECURED AND IS IN A POSITION TO SUSTAIN A LOSS.

(6) BE FOR THE PURPOSE OF REPAYING A DEBT OWED TO A
SMALL BUSINESS INVESTMENT COMPANY.

(7) PROVIDE FUNDS FOR SPECULATION IN ANY KIND OF
PROPERTY, REAL OR PERSONAL, TANGIBLE OR INTANGIBLE.

(C) SECURITY.--ALL LOANS SHALL BE SECURED BY LIENS ON THE
EQUIPMENT PURCHASED AND OTHER SUFFICIENT COLLATERAL AS
DETERMINED BY THE SECRETARY.

SECTION 5. APPLICATION AND ADMINISTRATION.

(A) PROCEDURES.--APPLICATION AND ADMINISTRATION PROCEDURES
FOR FUND LOANS SHALL BE ESTABLISHED BY THE SECRETARY.

(B) RECEIPT.--THE SECRETARY SHALL RECEIVE APPLICATIONS FROM
ELIGIBLE FIRMS FOR MACHINERY AND EQUIPMENT LOANS. APPLICATIONS
SHALL BE MADE TO THE SECRETARY IN THE FORM AND MANNER AS THE
DEPARTMENT MAY REQUIRE.

(C) INVESTIGATION.--UPON RECEIPT OF THE APPLICATION, THE
SECRETARY SHALL INVESTIGATE AND REVIEW THE APPLICATION AND
EITHER APPROVE OR DISAPPROVE THE LOAN APPLICATION BY PROPER
ACTION OF THE DEPARTMENT. THE DECISION ACTION OF THE SECRETARY
SHALL BE BASED, IN WHOLE OR IN PART, UPON THE FOLLOWING
CRITERIA:

(1) ABILITY OF THE APPLICANT TO MEET AND SATISFY ALL
DEBT SERVICE AS IT BECOMES DUE AND PAYABLE.

1 (2) SUFFICIENCY OF AVAILABLE COLLATERAL, INCLUDING
2 SATISFACTORY LIEN POSITIONS ON REAL AND PERSONAL PROPERTY.

3 (3) ELIGIBILITY OF THE APPLICANT AS A BUSINESS
4 ENTERPRISE INVOLVED IN INDUSTRIAL PROCESSES, MANUFACTURING,
5 MINING OR OTHER INDUSTRIAL SECTORS AS DEFINED BY THE
6 SECRETARY.

7 (4) SUFFICIENT EVIDENCE THAT FUNDS SHALL BE USED ONLY TO
8 ACQUIRE AND INSTALL NEW EQUIPMENT AND MACHINERY OR UPGRADE
9 EXISTING EQUIPMENT AND MACHINERY.

10 (5) CAPITAL NEED OF THE APPLICANT.

11 (6) CONFORMITY OF THE PROJECT TO THE PROVISIONS OF THIS
12 ACT.

13 (7) RELEVANT CRIMINAL AND CREDIT HISTORY AND RATINGS OF
14 APPLICANT AS DETERMINED FROM OUTSIDE CREDIT REPORTING
15 SERVICES AND OTHER SOURCES.

16 (8) NUMBER OF NET EMPLOYMENT OPPORTUNITIES CREATED AND
17 RETAINED BY THE PROPOSED PROJECT.

18 (9) SUPPORTING EVIDENCE THAT LOAN PROJECT WILL INCREASE
19 THE FIRM'S COMPETITIVENESS AND VALUE ADDED WITHIN ITS
20 RESPECTIVE INDUSTRY.

21 (10) EXPLANATION OF HOW LOAN WILL AID THE COMMONWEALTH
22 IN ITS EFFORTS TO ASSIST BUSINESS ENTERPRISES TO INCREASE
23 THEIR PRODUCTIVITY AND IMPROVE THE FUTURE COMPETITIVE
24 POSITION OF THIS COMMONWEALTH'S INDUSTRIES.

25 (11) COMPLIANCE WITH THE LOAN AMOUNT LIMITATIONS
26 PROVIDED FOR MACHINERY AND EQUIPMENT LOANS.

27 (12) PAYMENT TO DATE OF ALL TAX OBLIGATIONS DUE AND
28 OWING TO THE COMMONWEALTH OR ANY POLITICAL SUBDIVISION
29 THEREOF.

30 (13) CONFORMITY OF ALL ASPECTS OF THE LOAN TRANSACTION

1 WITH THE SUBSTANTIVE AND PROCEDURAL PROVISIONS OF THIS ACT
2 AND REGULATIONS PROMULGATED HEREUNDER.

3 (14) SUCH INFORMATION AND DOCUMENTATION AS THE SECRETARY
4 SHALL REQUIRE.

5 (D) NOTIFICATION.--THE SECRETARY SHALL NOTIFY THE APPLICANT
6 OF FINAL APPROVAL OR DISAPPROVAL OF THE LOAN APPLICATION WITHIN
7 A REASONABLE PERIOD OF TIME FOLLOWING THE RECEIPT OF THE
8 APPLICATION. IN THE CASE OF APPROVAL OF A LOAN APPLICATION, THE
9 SECRETARY SHALL ARRANGE TO DRAW THE LOAN AMOUNT FROM THE FUND
10 AND ADVANCE THE SUM TO THE RECIPIENT. THE ADVANCE SHALL BE MADE
11 AVAILABLE IN THE FORM OF A LOAN TRANSACTION, WHICH LOAN SHALL BE
12 EVIDENCED BY A NOTE EXECUTED BY THE RECIPIENT AND SECURED IN A
13 MANNER AS THE SECRETARY SHALL REQUIRE IN CONFORMITY IN ALL
14 RESPECTS TO THE LOAN AS APPROVED BY THE SECRETARY.

15 (E) POLICY REQUIREMENTS AND REPORT.--ALL LOANS SHALL BE
16 ADMINISTERED AND MONITORED BY THE DEPARTMENT IN ACCORDANCE WITH
17 THE POLICIES AND PROCEDURES PRESCRIBED BY THE SECRETARY. ON OR
18 BEFORE JUNE 30 EACH YEAR, THE SECRETARY SHALL PREPARE A REPORT
19 THAT INCLUDES THE FOLLOWING:

- 20 (1) EACH OUTSTANDING LOAN.
- 21 (2) THE DATE OF APPROVAL.
- 22 (3) THE ORIGINAL PRINCIPAL BALANCE.
- 23 (4) THE CURRENT PRINCIPAL BALANCE.
- 24 (5) THE INTEREST RATE.
- 25 (6) THE PURPOSE FOR WHICH THE LOAN WAS MADE.
- 26 (7) AN ENUMERATION OF ANY PROBLEMS OR ISSUES WHICH HAVE
27 ARISEN WITH REGARD TO EACH LOAN.
- 28 (8) A STATEMENT REGARDING THE PROGRESS OF THE BUSINESS
29 IN CREATING AND RETAINING ITS REQUISITE NUMBER OF EMPLOYMENT
30 OPPORTUNITIES.

(9) SUCH OTHER INFORMATION AND DOCUMENTATION AS THE SECRETARY SHALL REQUIRE.

(F) PENALTY FOR NONCOMPLIANCE.--IN THE EVENT THAT A LOAN RECIPIENT SHALL NOT COMPLY WITH ITS APPROVED APPLICATION BY FAILING TO CREATE OR PRESERVE THE NUMBER OF EMPLOYMENT OPPORTUNITIES SPECIFIED IN ITS APPROVED APPLICATION, THE SECRETARY SHALL IMPOSE A PENALTY EQUAL TO AN INCREASE IN THE INTEREST RATE TO 2% GREATER THAN THE CURRENT PRIME INTEREST RATE FOR THE REMAINDER OF THE LOAN UNLESS THE PENALTY IS WAIVED BY THE SECRETARY BECAUSE THE FAILURE IS DUE TO CIRCUMSTANCES OUTSIDE THE CONTROL OF THE LOAN RECIPIENT. THE PENALTY SHALL BE PAYABLE IN INSTALLMENTS THAT THE SECRETARY DEEMS APPROPRIATE.

SECTION 6. POWERS OF SECRETARY.

THE SECRETARY SHALL HAVE AND MAY EXERCISE ALL POWERS AND AUTHORITY NECESSARY TO THE PROPER ADMINISTRATION AND IMPLEMENTATION OF THIS ACT AND SHALL HAVE THE AUTHORITY TO ADOPT POLICIES, PROCEDURES AND GUIDELINES AND PROMULGATE RULES AND REGULATIONS NECESSARY TO EFFECTUATE THE PROVISIONS OF THIS ACT.

SECTION 7. REPORTING AND INSPECTION.

(A) INSPECTION.--EACH BUSINESS ENTERPRISE WHICH APPLIES FOR OR RECEIVES ASSISTANCE UNDER THIS ACT, UPON REASONABLE REQUEST OF THE DEPARTMENT, SHALL PERMIT DULY AUTHORIZED EMPLOYEES OF THE DEPARTMENT TO INSPECT THE PLANT, BOOKS AND RECORDS OF THE BUSINESS ENTERPRISE.

(B) UPDATING.--EACH BUSINESS ENTERPRISE SHALL UPDATE THE INFORMATION GIVEN TO THE DEPARTMENT IN ITS APPLICATION IF CONDITIONS CHANGE OR TO THE EXTENT THAT THE INFORMATION GIVEN ORIGINALLY BECOMES INACCURATE OR MISLEADING.

(C) PERIODIC REPORTS.--EACH RECIPIENT OF ASSISTANCE UNDER THIS ACT SHALL PROVIDE THE DEPARTMENT WITH PERIODIC FINANCIAL

1 REPORTS AS THE SECRETARY MAY REQUIRE UNTIL SUCH TIME AS THE LOAN
2 IS PAID OFF.

3 SECTION 8. NONDISCRIMINATION.

4 NO LOAN SHALL BE MADE TO A BUSINESS ENTERPRISE UNLESS THE
5 BUSINESS ENTERPRISE CERTIFIES TO THE DEPARTMENT, IN A FORM
6 SATISFACTORY TO THE DEPARTMENT, THAT IT SHALL NOT DISCRIMINATE
7 AGAINST ANY EMPLOYEE OR ANY APPLICANT FOR EMPLOYMENT BECAUSE OF
8 RACE, RELIGION, COLOR, NATIONAL ORIGIN, SEX OR AGE. THE BUSINESS
9 ENTERPRISE SHALL ALSO CERTIFY TO THE DEPARTMENT THAT IT IS NOT
10 CURRENTLY UNDER CITATION FOR POLLUTION VIOLATIONS AND THAT IN
11 THE FUTURE IT WILL MEET ALL APPLICABLE ANTIPOLLUTION STANDARDS.

12 SECTION 9. CONFLICT OF INTEREST.

13 NO EMPLOYEE OF THE DEPARTMENT SHALL, EITHER DIRECTLY OR
14 INDIRECTLY, BE A PARTY TO OR HAVE ANY FINANCIAL INTEREST IN ANY
15 CONTRACT OR AGREEMENT ARISING PURSUANT TO THIS ACT.

16 SECTION 10. REPORTS TO THE GENERAL ASSEMBLY.

17 (A) ANNUAL REPORTS.--ON OR BEFORE JUNE 30 OF EACH YEAR, THE
18 SECRETARY SHALL PROVIDE A REPORT TO THE CHIEF CLERK OF THE HOUSE
19 OF REPRESENTATIVES AND TO THE SECRETARY OF THE SENATE. THE
20 REPORT SHALL DESCRIBE ALL RELEVANT ACTIVITIES OF THE DEPARTMENT
21 PURSUANT TO THIS ACT AND SHALL INCLUDE THE FOLLOWING:

22 (1) LIST OF BUSINESS ENTERPRISES RECEIVING LOANS FROM
23 THE FUND AND THE AMOUNTS AND TERMS OF THIS ASSISTANCE.

24 (2) LOAN AMOUNTS REPAID.

25 (3) LOANS OUTSTANDING AND BALANCES DUE, INCLUDING
26 DELINQUENT PAYMENTS.

27 (4) JOBS CREATED BY BUSINESSES RECEIVING FUNDS IN ALL
28 PREVIOUS YEARS.

29 (5) OTHER RELEVANT INFORMATION AS DETERMINED BY THE
30 SECRETARY OF COMMERCE.

1 (B) AVAILABILITY OF DEPARTMENTAL REPORTS.--REPORTS RECEIVED
2 BY THE DEPARTMENT UNDER SECTION 5(E) SHALL BE MADE AVAILABLE
3 UPON REQUEST TO MEMBERS OF THE GENERAL ASSEMBLY.
4 SECTION 11. EFFECTIVE DATE.
5 THIS ACT SHALL TAKE EFFECT IMMEDIATELY.